

110TH CONGRESS
1ST SESSION

H. R. 3160

To amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income.

IN THE HOUSE OF REPRESENTATIVES

JULY 24, 2007

Mr. DOGGETT (for himself, Mr. STARK, Mr. LEVIN, Mr. McDERMOTT, Mr. LEWIS of Georgia, Mr. NEAL of Massachusetts, Mr. McNULTY, Mr. POMEROY, Mrs. JONES of Ohio, Mr. PASCRELL, Mr. MEEK of Florida, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ANDREWS, Mr. BAIRD, Mr. BERMAN, Mr. BERRY, Ms. CORRINE BROWN of Florida, Mr. CAPUANO, Ms. CARSON, Ms. CLARKE, Mr. CLEAVER, Mr. CONYERS, Mr. COSTELLO, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mr. DEFazio, Mr. DELAHUNT, Ms. DELAURO, Mr. EDWARDS, Mr. ELLISON, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. GRIJALVA, Mr. HARE, Mr. HINCHEY, Mr. HOLT, Ms. HOOLEY, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Ms. KAPTUR, Mr. KENNEDY, Ms. KILPATRICK, Ms. LEE, Mr. MCGOVERN, Mr. GEORGE MILLER of California, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. NADLER, Mr. PAYNE, Mr. RUSH, Ms. LORETTA SANCHEZ of California, Ms. SCHAKOWSKY, Mr. SHERMAN, Ms. SLAUGHTER, Ms. SOLIS, Ms. SUTTON, Mr. TIERNEY, Ms. WATSON, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to prevent corporations from exploiting tax treaties to evade taxation of United States income.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. LIMITATION ON TREATY BENEFITS FOR CER-**
2 **TAIN DEDUCTIBLE PAYMENTS.**

3 (a) IN GENERAL.—Section 894 of the Internal Rev-
4 enue Code of 1986 (relating to income affected by treaty)
5 is amended by adding at the end the following new sub-
6 section:

7 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
8 TAIN DEDUCTIBLE PAYMENTS.—

9 “(1) IN GENERAL.—In the case of any deduct-
10 ible related-party payment, the amount of any with-
11 holding tax imposed under chapter 3 (and any tax
12 imposed under subpart A or B of this part) with re-
13 spect to such payment shall not be less than the
14 amount which would be imposed if the payment were
15 made directly to the foreign parent corporation (tak-
16 ing into account any income tax treaty between the
17 United States and the country in which the foreign
18 parent corporation is resident).

19 “(2) DEDUCTIBLE RELATED-PARTY PAY-
20 MENT.—For purposes of this subsection, the term
21 ‘deductible related-party payment’ means any pay-
22 ment made, directly or indirectly, by any person to
23 any other person if the payment is allowable as a de-
24 duction under this chapter and both persons are
25 members of the same foreign controlled group of en-
26 tities.

1 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
2 TIES.—For purposes of this subsection—

3 “(A) IN GENERAL.—The term ‘foreign
4 controlled group of entities’ means a controlled
5 group of entities the common parent of which
6 is a foreign corporation.

7 “(B) CONTROLLED GROUP OF ENTITIES.—
8 The term ‘controlled group of entities’ means a
9 controlled group of corporations as defined in
10 section 1563(a)(1), except that—

11 “(i) ‘more than 50 percent’ shall be
12 substituted for ‘at least 80 percent’ each
13 place it appears therein, and

14 “(ii) the determination shall be made
15 without regard to subsections (a)(4) and
16 (b)(2) of section 1563.

17 A partnership or any other entity (other than a
18 corporation) shall be treated as a member of a
19 controlled group of entities if such entity is con-
20 trolled (within the meaning of section
21 954(d)(3)) by members of such group (includ-
22 ing any entity treated as a member of such
23 group by reason of this sentence).

24 “(4) FOREIGN PARENT CORPORATION.—For
25 purposes of this subsection, the term ‘foreign parent

1 corporation' means, with respect to any deductible
2 related-party payment, the common parent of the
3 foreign controlled group of entities referred to in
4 paragraph (3)(A).

5 “(5) REGULATIONS.—The Secretary may pre-
6 scribe such regulations or other guidance as are nec-
7 essary or appropriate to carry out the purposes of
8 this subsection, including regulations or other guid-
9 ance which provide for—

10 “(A) the treatment of two or more persons
11 as members of a foreign controlled group of en-
12 tities if such persons would be the common par-
13 ent of such group if treated as one corporation,
14 and

15 “(B) the treatment of any member of a
16 foreign controlled group of entities as the com-
17 mon parent of such group if such treatment is
18 appropriate taking into account the economic
19 relationships among such entities.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to payments made after the date
22 of the enactment of this Act.

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